

Kevin P. Rooney, #107554  
Of Counsel, HAMMERSCHMIDT LAW CORPORATION  
2445 Capitol Street, Suite 215  
Fresno, CA 93721  
Tel: (559) 233-5333  
Fax: (559) 485-3852

Attorney for Defendant, ANTHONY OCHOA

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTHONY OCHOA,

Defendant.

Case No.: 1:24-CR-55 JLT/SKO

Defendant Anthony Ochoa's Request And

[Proposed] Order For Funds For Travel,

Lodging, And Subsistence Pursuant To 18

U.S.C. § 4285 And The Criminal Justice Act

18 U.S.C. §3006A

Travel February 10, 2025

1. Introduction and Summary of Argument

Mr. Ochoa is scheduled for change of plea on February 10, 2025. Mr. Ochoa is a long term Southern California resident. Mr. Ochoa is indigent and requests funds to allow him to travel to Court.

2. Due Process Requires The Provision Of The Requested Funds

There is unambiguous statutory authority for this Court direct the United States Marshal to furnish Mr. Ochoa with the cost of travel so he can attend court in Fresno on February 10, 2025. *See*, 18 U.S.C. § 4285. Pursuant to that statute, Mr. Ochoa requests the United States Marshal provide him with mileage and subsistence expenses during his travel period not to exceed the

1 amount authorized as per diem allowance for travel under 5 U.S.C. § 5702(a).

2 Several cases have held that § 4285 does not obligate the Marshalls Service to pay an  
3 indigent defendant's subsistence expenses – food and lodging - once the defendant arrives and  
4 can attend Court. Similarly, expenses to return home after a Court appearance are not covered by  
5 that statute. With regard to travel, lodging, and subsistence funding as a due process right for an  
6 indigent defendant, several cases have held that a defendant has the right to attend his court  
7 proceedings and cannot be forced to choose between surrendering himself into custody or to go  
8 without food and lodging while attending court. *See, United States v. Badalamenti*, 1986 WL  
9 8309 (S.D.N.Y. Jul. 22, 1986). In *United States v. Mendoza*, 734 F.Supp.2d 281, 286-87,  
10 (E.D.N.Y. 2010), the Court found that the Criminal Justice Act, 18 U.S.C. §3006A, provided the  
11 appropriate funding mechanism for a defendant's lodging and subsistence expenses while he is  
12 away from home for court proceedings and for the cost of return travel and subsistence.  
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15 Based on those precedents, Mr. Ochoa requests funding for his travel and subsistence as  
16 follows:  
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- 18 (1) From funds authorized under 18 U.S.C. § 4285, for the defendant's travel from his  
19 Southern California to Fresno, California, for his Court appearance on February 10,  
20 2025;
- 21 (2) From funds authorized under the Criminal Justice Act, 18 U.S.C. §3006A, for the  
22 defendant's travel home from his Court appearance on February 10, 2025 including  
23 subsistence expenses and mileage.;

24 Mr. Ochoa lives in Santa Ana, California and has extremely limited funds, and does not have a  
25 means of transportation, or a valid driver's license. Mr. Ochoa will have a friend drive him to  
26 court on February 10.  
27

Counsel is informed and believes this Court is inclined to order travel and subsistence funding as referenced in (1) and (2) above and to further authorize undersigned counsel to advance those expenses with reimbursement to counsel from Criminal Justice Act (CJA) funds ordered by the Court.

Counsel will provide defendant Anthony Ochoa with a copy of the travel funds document which is attached to the proposed order and advise Anthony Ochoa of Anthony Ochoa's potential liability for excess expenses. Counsel will seek reimbursement from CJA funds promptly once the authorized travel is completed.

Dated: February 6, 2025

Respectfully submitted,

/s Kevin Rooney  
KEVIN P. ROONEY  
Attorney for Defendant  
ANTHONY OCHOA

### **ORDER**

Pursuant to 18 U.S.C. § 4285, the Court orders the United States Marshall's office to disburse funds to reimburse Anthony Ochoa for mileage and subsistence for the defendant's travel from his Santa Ana, California residence to Fresno, California, for his Court appearance on February 10, 2024 .


Pursuant to 18 U.S.C. § 3006A, the Court orders the disbursement of Criminal Justice Act (CJA) funds to furnish Anthony Ochoa with travel expenses, food, and incidental expenses on February 10, 2024 in connection with Mr. Ochoa's return to Southern California. It is further ordered that to the extent practicable, the travel and subsistence expenses shall not exceed the

1 parameters set out in the attached Travel Funding Memorandum and the per diem allowance for  
2 travel under 5 U.S.C. § 5702(a).

3 It is further ordered that undersigned counsel may advance the travel and subsistence funds  
4 to be disbursed from CJA funds and that the Court orders that counsel be reimbursed from CJA  
5 funds. Counsel shall seek any reimbursement from CJA funds promptly once the authorized  
6 travel is completed. Counsel shall endeavor to limit the expenses to the parameters set out in the  
7 attached Travel Funding Memorandum, however counsel is not personally liable for excess  
8 expenses and shall be reimbursed from CJA funds for all expenses reasonably authorized.  
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11 IT IS SO ORDERED.

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13 Dated: February 7, 2025

  
14 Hon. Jennifer L. Thurston  
15 United States District Judge  
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